

## What is guardianship?

- Guardianship is a *legal relationship* that is appointed by the clerk of superior court.
- The Guardian becomes the decision maker for an incompetent adult (the ward).

## How is incompetence determined for a person?

- Incompetence is determined in a court proceeding.
- Incompetence means an adult is unable to manage his own affairs, and/or is unable to make important decisions.

## What are the 4 different kinds of guardians?

A **guardian of the person** has authority to make decisions in most areas of a ward's personal life, including:

- Deciding where the individual will live should be based on the ward's preferences, needs and resources.
- Decisions on where the ward will live must be given to community based living situations over institutional settings.
- Ensuring that the ward receives good care and arranging for appropriate training, education, employment, habilitation or rehabilitation that the ward may need.
- Giving approval for the ward to receive any needed services (medical, dental, legal, psychological, etc.).
- The guardian may petition the clerk of superior court for the clerk's agreement with the guardian's decision about such consent.
- The guardian may not consent to the sterilization of a ward with a mental illness or mental retardation.
- Taking reasonable care of the ward's personal belongings.
- Taking any legal action needed to protect the ward.

A **limited guardian** has authority to make decisions in certain areas of a ward's life. It is a less restrictive option than full guardianship.

A **guardian of the estate** has authority to manage the ward's income and property.

- He or she must keep good records and make regular reports (annual accounts) to the clerk of superior court about the ward's assets and all expenditures made on behalf of the ward from the ward's estate.
- The guardian of the estate is required to post a bond for the protection of the ward's estate and must obtain the Clerk's prior approval for the sale of the ward's property.

A **general guardian** has the powers and duties of both a guardian of the person and a guardian of the estate.

NC Division of Aging and Adult Services

[http://www.ncdhhs.gov/aging/adultsvcs/afs\\_guard.htm](http://www.ncdhhs.gov/aging/adultsvcs/afs_guard.htm)

NC Guardianship Association <http://www.nc-guardian.org>

